

COUNTY OF YORK

MEMORANDUM

DATE: April 17, 2001 (BOS Mtg. 5/01/01)

TO: York County Board of Supervisors

FROM: James E. Barnett, County Attorney

SUBJECT: Conveyance of easement to United States of America—Surrender Road

By the adoption of Resolution R94-9 on January 20, 1994, the Board of Supervisors abandoned the right of way for Surrender Road pursuant to the provisions of Code of Virginia § 33.1-151. That section allows any county on its own motion, or on the petition of any interested landowner, to abandon any section of the secondary system of state highways no longer deemed necessary for public highway uses. Since the abandonment, Surrender Road has been maintained by the National Park Service as a portion of the network of tour roads which run throughout the Yorktown Battlefields. As a consequence of the vacation of any public road, the adjoining property owners automatically obtain title to those portions of the abandoned roadway in which they have an interest, which is presumed to be the centerline of the roadway as it fronts upon the landowner's property. Because the National Park Service owns most of the land on both sides of Surrender Road, it became the owner of almost the entire abandoned roadway, and it has exercised control over Surrender Road since January of 1994.

However, one detail which was overlooked in 1994 was that the National Park Service did not then, and does not now, own *all* of the property abutting the roadway, and therefore, did not automatically acquire ownership of the entire roadway. The attached map produced by the County's Division of Computer Support Services, demonstrates that a section of the right of way for Surrender Road near its southernmost intersection with Cook Road abuts a parcel owned by the York County School Board (that is, the York High School property) and a parcel owned by the County Board of Supervisors. Because no action appears to have been undertaken in 1994 to convey the affected portions of Surrender Road to the National Park Service, the southerly half of the right of way of Surrender Road as it abuts the County and School Board parcels is owned by the School Board and by the County, respectively.¹

In order to complete the process begun in 1994 for the conveyance to the Park Service of all of the right of way of Surrender Road, the National Park Service has requested the County to officially convey an easement over the County's portion of Surrender Road. A draft easement donation deed, to be signed both by the York County School Board and the Board of Supervisors, is attached. I have reviewed it and found it acceptable. This matter has been advertised for a public hearing consistent with Code of Virginia § 15.2-1800, which requires (with exceptions not applicable here) that a conveyance

¹The County did not own its parcel in 1994, but acquired it in 1997. By operation of law, at the same time, the County also acquired the corresponding interest in the southern half of Surrender Road as it abuts the property.

of an interest in County owned property must be authorized only following the holding of a public hearing.

Although I have suggested to the Park Service that we ought to convey the entire roadway and not just an easement, the Park Service is concerned about the additional time that would be required to effect a conveyance of full title to the land. In the case of the School Board, at least, a conveyance of the fee title would take considerably longer to accomplish than a conveyance of an easement, because of the procedural hurdles a school board must overcome in order to transfer title to land. The Park Service is facing some deadlines to accomplish the conveyance because of the pending expiration of some budget approvals and environmental studies and has suggested that a transfer of full title to the roadway could be accomplished later.

I recommend the adoption of attached Resolution R01-91 which authorizes the County Administrator to execute an appropriate easement deed.

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Attachments

- GIS map showing subject property
- Easement donation deed
- Proposed Resolution R01-91